



US Army Corps
of Engineers

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of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 298990N DATE: November 22, 2005
RESPONSE REQUIRED BY: December 23, 2005

PERMIT MANAGER: Kelley Reid

PHONE: 707-443-0855

Email: Kelley.E.Reid@spd02.usace.army.mil

1. INTRODUCTION: The Wiyot Tribe has applied to the U.S. Army Corps of Engineers (USACE) for a Department of the Army permit to construct the Indian Island Cultural and Environmental Restoration Project (IICERP).

To assist with design and permits, the Tribe has hired:

Mr. Mike Wilson (707-826-2869)
HWR Engineering and Science
P.O. Box 165
Arcata, California 95518.

The tribal point of contact for the project is:

Ms. Maura Eastman (707-773-5055)
Table Bluff Reservation Wiyot Tribe
1000 Wiyot Drive
Loleta, California 95551.

This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

2. PROPOSED PROJECT:

Project Site: The project would be constructed on tribal-owned property (APNs 405-011-02 and -03), located at the north end of Indian Island, in Humboldt Bay, adjacent to the City of Eureka, Humboldt County, California. The project location is depicted in the attached Figure 1, "Location Map."

The tribal-owned property is approximately 60 acres in area, and is comprised of relatively flat, tidal saltmarsh, an historic Native American shell mound known as Tuluwat, the remains of an abandoned ship repair yard, and recently unoccupied residences. The Tuluwat shell mound is approximately six acres in total area. Three acres of the shell mound are at elevations between 6 to 10 feet MLLW and are presumed to be tidal saltmarsh; the remaining three acres are presumed to be upland habitat. Several buildings and the remains of a boat drydock and repair facility are also presumed to occupy upland habitat. Much of the immediate area surrounding these buildings is littered with miscellaneous equipment, industrial debris, and lumber. USACE has not formally confirmed the extent of jurisdictional waters of the United States occurring on the tribal-owner property to date. The geographic relationship of Humboldt Bay, tidal saltmarsh, the shell mound, and existing structures is depicted in the attached Figure 2, "Site Map."

The upland areas of the shell mound and ship repair facility are dominated by coyote brush (*Baccharis pilularis*). The tidal saltmarsh is dominated by Chilean cordgrass (*Spartina densiflora*-NI), pickleweed (*Salicornia virginica*-OBL), marsh rosemary (*Limonium californicum*-OBL), arrowgrass (*Triglochin maritimus*-OBL), saltgrass (*Distichlis spicata* FACW), Jaumea (*Jaumea carnosa*-OBL) and tufted hairgrass (*Deschampsia cespitosa*-FACW). Although not dominant, the wetland vegetation also includes (*Castilleja ambigua* v. *humboldtensis*) and Point Reyes birds' beak (*Cordylanthus maritimus* v.

palustris).

Project Description: The Wiyot Tribe is proposing to construct the IICERP, consisting of a traditional dance house, tribal gathering areas, food service structure, vault toilet, caretaker's residence, landscaping and grading, and remediation of hazardous materials. These project elements would be located in presumed upland habitat to avoid jurisdictional waters of the United States. In addition, the IICERP would include the removal of treated wood debris and contaminated surface soils in the vicinity of the existing way runners, the placement of permeable soil cover to facilitate reuse of the immediate area, and the construction of a new boat dock at the existing dock location to provide access to the site. The dock structure would consist of a 5-foot wide by 80-foot long stationary concrete pier, a 5-foot wide by 80-foot long movable aluminum gangway, and a 20-foot wide by 30-foot long concrete floating dock, supported by ten, 12- to 16-inch diameter, pre-stressed concrete piles. The dock structure would neither house any utility hook-ups nor require subsequent periodic maintenance dredging for boat access. Prior to construction, approximately 22 existing wood piles and remnants of the existing deteriorated wood dock would be removed. These project elements are depicted in the attached Figure 3, "Illustration of Project Features," and Figure 4, "Site Plan and Typical Section Conceptual India Island Dock Design."

Purpose and Need: Indian Island is the center of the Wiyot ancestral territory and the spiritual center of the Wiyot universe. The people and their ancestors have inhabited the island and the land around the bay since time immemorial. Two Wiyot villages were known to have existed on the island. Since the 1860 massacre, the Wiyot have been prohibited from performing their World Renewal Ceremony. The primary purpose of the restoration project is to re-establish the World Renewal Ceremony and associated cultural and educational activities on the Tuluwat Village site.

Impacts to USACE Jurisdiction: The construction

of a new boat dock structure would be subject to regulation under Section 10 of the Rivers and Harbors Act. The removal of the existing rails, wayrunners, and contaminated soils in the immediate vicinity may be subject to regulation under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. All other project elements would be constructed above the ten-foot MLLW elevation and above the high tide line, and presumably landward of adjacent wetlands; therefore, these construction activities may not result in any discharge of dredged or fill material into jurisdictional waters of the United States.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The USACE will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the USACE Regulations (33 C.F.R. Parts 230 and 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within USACE jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the USACE Eureka Field Office at the address below.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS), if a USACE permitted activity adversely affects any federally listed threatened or endangered species or designated critical habitat. At this time, USACE has not determined whether the project would affect any federally listed endangered or threatened species or critical habitat, but it recognizes that Humboldt Bay is occupied by endangered tidewater goby (*Eucyclogobius newberryi*), threatened steelhead trout

(*Oncorhynchus mykiss*), threatened Chinook salmon (*O. tshawytscha*), and threatened coho salmon (*Oncorhynchus kisutch*). Humboldt Bay is also designated critical habitat for these fish species.

Magnuson-Stevens Fisheries Conservation and Management Act: The NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) for Pacific salmon, Pacific groundfish, and coastal pelagic fish species. At this time, USACE has not determined whether the project would adversely impact EFH; in the event USACE identifies specific project related impacts to EFH, consultation would be initiated with NMFS in accordance with the statute.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a USACE permit must first obtain a State water quality certification before a Corps permit may be issued. The Wiyot Tribe is hereby notified by this Public Notice that, unless USACE is provided evidence of a valid request for State water quality certification to the North Coast Regional Water Quality Board within 30 days of the date of this Public Notice, USACE may consider the permit application to be withdrawn. No Department of the Army permit will be issued until the applicant obtains the required water quality certification. USACE may assume a waiver of water quality certification, if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403 by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and USACE has determined that the proposed project is water dependent.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. No Department of the Army permit will be issued until the State has concurred with the applicant's certification. Coastal development issues should be directed to the California Coastal Commission (CCC), 710 E Street, Suite 200, Eureka, California 95501.

National Historic Preservation Act of 1966 (NHPA): The site of the IICERP is also the site of the historic and pre-historic Tuluwat Village, one of the ancestral homes of the Wiyot people. The six-acre Tuluwat shell mound was designated as a National Historic Landmark by the Department of the Interior in 1964. Prior to issuing any Department of the Army permit for the project, USACE will consult with the Tribal Historic Preservation Office (THPO), in addition to the State Historic Preservation Office and the Table Bluff Reservation of the Wiyot, in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable

detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS:

USACE is soliciting comments from the public, Federal, State and local agencies and officials, Native American Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by USACE to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Eureka Field Office, P.O. Box 4863, Eureka California 95501. It is a USACE policy to forward comments critical of the project to the applicant for resolution or rebuttal. Any person may also request, in

writing, within the comment period of this Public Notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Kelley Reid of the Eureka Field Office at telephone 707-443-0855 or E-mail: Kelley.E.Reid@spd02.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request

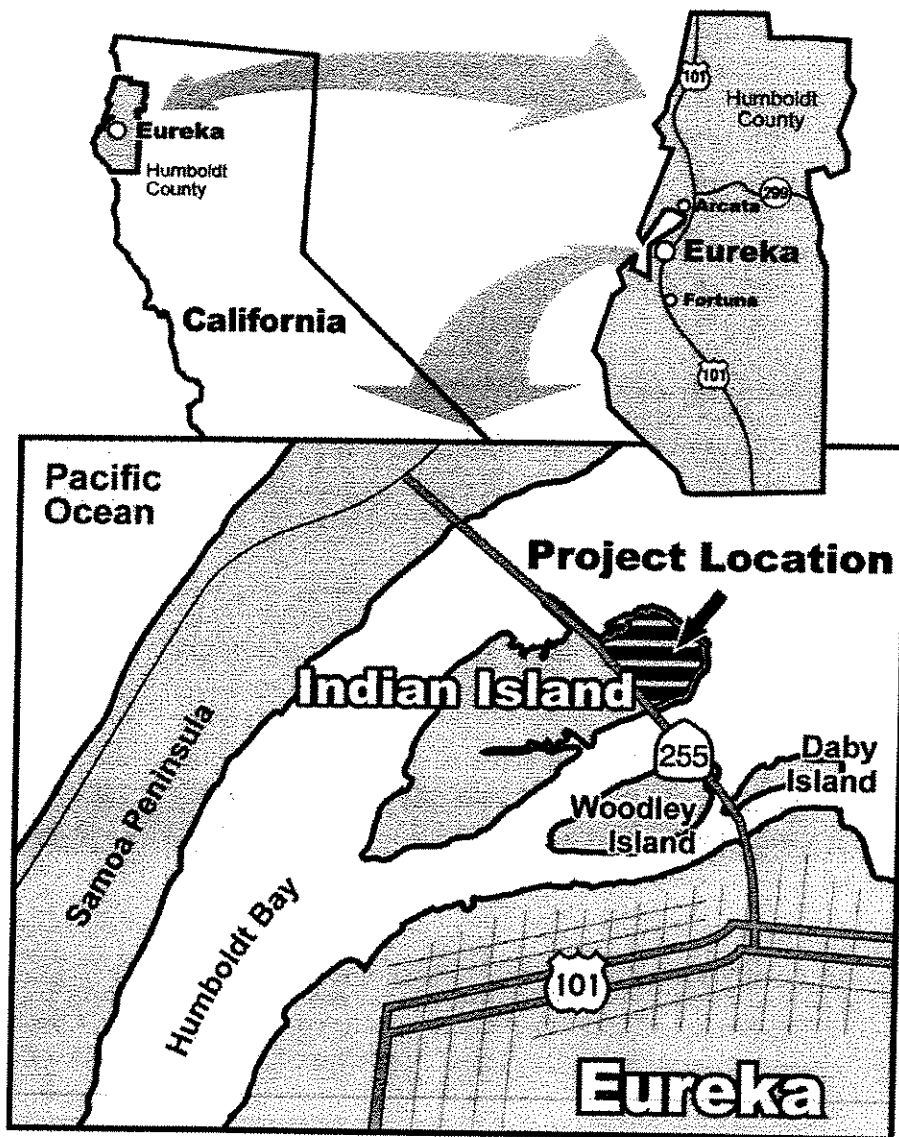


Figure 1: Location Map

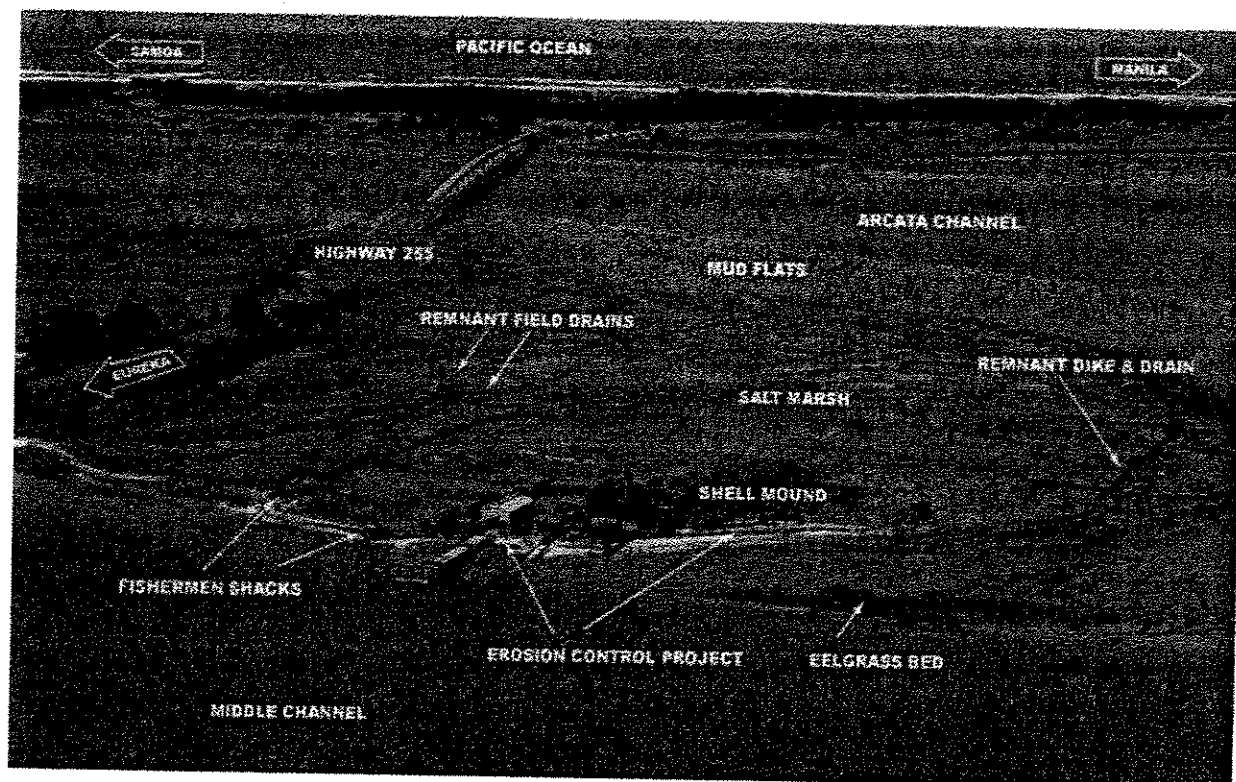


Figure 2: Site Map

- A. Dance House
- B. Caretaker's Residence
- C. Kitchen
- D. Vault Toilet/Storage
- E. Fire Ring
- F. Dock
- G. Bulkhead/Sculpture

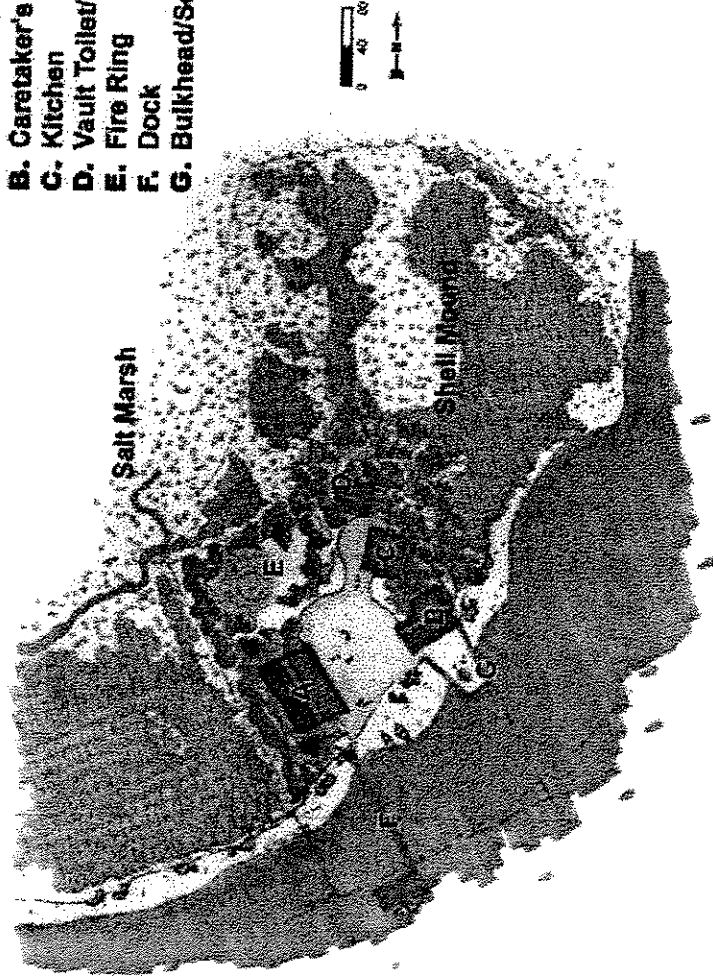


Figure III-4. Alternative 5 -Preferred Alternative Illustrative Plan

Figure 3: Illustration of Project Features

